

FILED BY THE BOARD OF  
SOCIAL WORK EXAMINERS

*K. H. Remack* 4-23-04

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF SOCIAL WORK EXAMINERS

IN THE MATTER OF

PAUL STEFFENS, C.S.W.

CERTIFIED TO ENGAGE IN SOCIAL  
WORK IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER  
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Social Work Examiners (hereinafter "the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. At all times relevant to this matter, Paul Steffens (hereinafter "Respondent") was a Certified Social Worker. Respondent's initial social work certification period was 1994-1996. Respondent last renewed his social work certification on September 1, 2000, and the certification expired on August 31, 2002.

2. A Judgment of Conviction shows that on December 20, 2002, in New Jersey Superior Court, Law Division - Criminal, Mercer County, Respondent pleaded guilty to Medicaid Fraud in the Third Degree. (Copy of the Judgment of Conviction annexed hereto and made a part hereof).

3. On February 21, 2003, Respondent was sentenced to three years probation. Additionally, Respondent consented to medicaid debarment. (Copy of the Consent Order of Debarment annexed hereto and made a part hereof).

4. The Transcript of Plea disclosed that during the period from on or about January 12, 1996, through on or about June 23, 1997, Respondent, in his capacity as the chief executive officer of Hudson Behavioral Treatment Center, Inc. in Jersey City, Hudson County, New Jersey did receive or cause to be received payments from Medicaid for therapy services which in fact had not been provided.

### CONCLUSIONS OF LAW

During the time of the unlawful conduct described above, Respondent was a Certified Social Worker. Respondent last renewed his social work certification on September 1, 2000, and the certification expired on August 31, 2002. Pursuant to N.J.A.C. 13:44G-7.1, if a licensee or certificate holder "fails to renew his or her license or certification on or before the date specified in the biennial renewal notice, the license or certification shall automatically expire and the individual shall immediately cease practice." [sic] As provided by N.J.S.A. 45:1-7.1 any license or certification "not renewed within thirty days of its expiration date shall be suspended without a hearing."

Respondent's conviction for Medicaid Fraud and the conduct underlying the conviction constitute the violation of an insurance fraud prevention law pursuant to N.J.S.A. 45:1-21(k), the conviction of a crime involving moral turpitude or relating adversely to the social work profession pursuant to N.J.S.A. 45:1-21(f), the employment of dishonesty, fraud, deception, misrepresentation or false pretense pursuant to N.J.S.A. 45:1-21(b), and professional misconduct as determined by the Board pursuant to N.J.S.A. 45:1-21(e). Therefore, Respondent's conduct and conviction are grounds for disciplinary sanctions pursuant to N.J.S.A. 45:1-21, as well as grounds for the Board to refuse to reinstate Respondent's expired certification.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending Respondent's original certificate to practice social work for three years effective on the date of entry of this Final Order, with a like period of disqualification from reinstatement, a reprimand, and a civil monetary penalty of \$2,500.00, was entered on August 19, 2003, and a copy served on Respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said

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\*The language of N.J.A.C. 13:44G-7.1 was changed, effective January 20, 1998, to read as follows: "A license or certificate that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license or certificate shall be deemed to be engaged in unlicensed practice."

findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor. The Respondent submitted two letters, one with attachments, for Board consideration.

The first submission by Respondent, dated September 4, 2003, attached a copy of the Consent Order of Debarment [from Medicaid] which had been consented to by him, with a waiver of any right to hearing, as part of the plea agreement ending his criminal prosecution. In his letter, Respondent argued that the Board lacked the subject matter jurisdiction necessary to sanction him further, because any civil sanctions beyond the debarment agreement were precluded by the criminal disposition, which did not provide for any additional civil sanctions. Respondent further argued that the Board lacked subject matter jurisdiction because he had allowed his certification to lapse as of August 31, 2002, prior to the date of his criminal plea.

A response to Respondent's first submission, dated September 30, 2003, with exhibits attached, was provided to the Board by Deputy Attorney General Susan C. Berger. In her response, DAG Berger recounted that Respondent had pleaded guilty to one count of Medicaid Fraud, a third degree crime, and that he had admitted that in his position as the Chief Executive Officer of the Hudson Behavioral Treatment Center, he had directed a Medicaid billing system which maximized the number of patient billings by billing Medicaid for a full day of services for every session hour, every day, for each patient, each day the patient was present, regardless of whether the patient received services for the entire day. The exhibits attached were the transcript of the plea, the transcript of the sentencing, and the Judgment of Conviction. DAG Berger argued that both the conviction and the underlying admitted conduct provide grounds for the proposed sanctions pursuant to N.J.S.A. 45:1-21(b), (e), (f) and (k), because they constitute the violation of an insurance prevention law, the employment of dishonesty, fraud and deception, the conviction for a crime relating adversely to the social work profession, and professional misconduct.

DAG Berger further argued that the Board clearly has jurisdiction to take disciplinary action, including the assessment of civil monetary penalties, after a license or certificate holder is suspended by operation of N.J.S.A. 45:1-7.1, because the Board must be able to safeguard the public by screening certificate holders who can otherwise be reinstated by the payment of back fees pursuant to N.J.S.A. 45:1-

7.2, perhaps without any review of their character or conduct. In support of this reasoning, she referred to, and provided a copy of, an unreported decision of the Appellate Division (In the Matter of Kyong Suk Chai, M.D.).

The second submission from Respondent, dated October 23, 2003, responded to DAG Berger's letter and asserted that the Board's authority to suspend a certificate pursuant to N.J.S.A. 45:1-21 requires that the certification be valid and active. He repeated that his failure to renew his certification deprives the Board of jurisdiction and that the State is barred by the criminal disposition from imposing additional sanctions. Respondent also asserted that the Board was obligated to disregard the reasoning in IMO Chai because it is an unreported decision. Respondent cited no authority for his assertions.

Respondent's submissions were reviewed by the Board, together with all exhibits and argument provided by the Deputy Attorney General. The Board was not persuaded that the submitted materials merited further proceedings, as Respondent did not dispute the Findings of Fact or Conclusions of Law regarding his conviction, but argued instead legal issues of subject matter jurisdiction and double jeopardy.

Respondent's admissions, which underlie his criminal conviction, were carefully reviewed by the Board and are adequate bases for the civil disciplinary sanctions hereby imposed. Respondent prepared a billing system to maximize payment by Medicaid, which was clearly a deceptive practice intended to defraud the state government. T10:15 to T12:2" The criminal sanctions imposed by the court punished

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\*As provided in N.J.S.A. 45:1-7.2:

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c. 403 (C. 45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

\*\*"T" refers to the Transcript of Plea dated December 20, 2002, before the Hon. Bill Mathesius, J.S.C.

Respondent for his fraud, which was a crime of moral turpitude that relates adversely to the social work profession because it was committed by Respondent in his operation of a facility providing therapy services to those seeking treatment for substance abuse problems who were Medicaid clients.

The imposition by the Board of a civil monetary penalty pursuant to N.J.S.A. 45:1-25(a) does not constitute a second punishment triggering double jeopardy protections. Such penalties have been expressly designated by the Legislature as civil, and are remedial rather than punitive in their intent. Nor is the amount of the penalty in this case punitive in its impact. The civil monetary penalty assessed in this case roughly compensates the government for its expenses associated with bringing the civil disciplinary action against Respondent occasioned by his professional misconduct, and is significantly less than the maximum amount permitted by the statute. State v. Black, 153 N.J. 438, 443-446 (1998)(an administrative sanction not intended to impose punishment or to be punitive in impact is not barred by double jeopardy or fundamental fairness); *See also* Hudson v. U.S., 522 U.S. 93 (1997) (double jeopardy clause protects only against imposition of multiple criminal punishments for same offense in successive proceedings); State v. Womack, 145 N.J. 576, 584 (1996) (a civil penalty rationally related to the costs necessary to compensate the State is remedial).

The Board understands that the decision of the Appellate Division in IMO Chai is not binding precedent, but appreciates the guidance offered by its reasoning. The Board must be able to safeguard the public by screening certificate holders who are eligible for reinstatement, and when appropriate, disciplining them at a time when the facts are still fresh, but are subject to diminution by the passage of time in which memories may fade and evidence may be lost. The Board must have the ability to act in a timely fashion to safeguard the public by precluding the inappropriate reinstatement of an unfit licensee at some point in the future through the mere payment of fees. Disciplinary action against a lapsed licensee such as Respondent, who retains eligibility for such reinstatement, must remain within the jurisdiction of the Board.

ACCORDINGLY, IT IS on this / day of 23, 2004,

ORDERED that:

1. Respondent's original certificate to practice social work is hereby suspended for three (3) years from the date of entry of this order. Respondent shall surrender his certificate to the office of the

Board by sending it to Kay McCormick, Executive Director, State Board of Social Work Examiners, P.O. Box 45033, Newark, New Jersey 07101 within thirty (30) days hereof.

2. The Board shall not entertain a petition for reinstatement of Respondent's certification for a period of three (3) years from the date of entry of this order. Should Respondent seek reinstatement at the end of the three year period, he shall be required to appear personally before the Board to demonstrate his ability and fitness to practice social work. The Board reserves the right to decline reinstatement or to impose such restrictions or limitations upon the practice of social work by Respondent as it may deem necessary. Reinstatement shall not be unreasonably withheld at that time.


3. Unless and until his license is reinstated, Respondent shall not hold himself out as a social worker in this State, including but not limited to, exempt settings as defined in N.J.S.A. 45:15BB-5.

4. Respondent is hereby reprimanded for his unprofessional conduct as described herein.

5. Respondent is hereby assessed a civil penalty pursuant to N.J.S.A. 45:1-22 in the amount of two thousand, five hundred dollars (\$2,500.00) for conduct providing a basis for discipline pursuant to N.J.S.A. 45:1-21(b), (e), (f) and (k). Payment shall be made within thirty (30) days of service of this order upon Respondent and shall be by certified check or money order, payable to the State of New Jersey, and sent to Kay McCormack, Executive Director, State Board of Social Work Examiners, Post Office Box 45033, Newark, New Jersey 07101.

6. Failure to comply with any provisions of this Order or remit any and all payment required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF SOCIAL WORK EXAMINERS

By   
Doreen Bobby, LCSW  
Board President